



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Concord Police Supervisors Association	*	<i>(Corrected Decision)</i>
	*	
	*	
Petitioner	*	Case No. P-0792
v.	*	
	*	Decision No. 2007-086
City of Concord	*	
Respondent	*	
	*	

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

The Concord Police Supervisors Association (hereinafter "the Association") filed a Petition for Certification on March 1, 2007 requesting to create a bargaining unit comprised of the positions of Lieutenants and Sergeants employed by the City of Concord's Police Department (hereinafter "City"). In response, the City timely filed its objections and exceptions to the formation on the basis of a preclusive, and statutorily prohibited supervisory relationship between the two groups of ranking officers. The City requests that the petition be dismissed on that basis.

The PELB scheduled an evidentiary hearing on the matter to occur on April 18, 2007. On April 11, 2007 the parties filed a Joint Motion for Pre-hearing conference, stating that they believed it would allow the parties time to narrow the issues and possibly allow the parties to explore settlement options. Subsequently, the motion was granted on the basis of those representations as the PELRB does not usually schedule pre-hearing conferences on petitions for new certifications of bargaining units.

A pre-hearing conference was scheduled and was before the undersigned Presiding Official was conducted on June 8, 2007 at the PELRB offices, Concord, New Hampshire. Both parties were represented by counsel and participated in the discussion regarding this matter. Also at the conference, Union's counsel made an oral motion to add three additional positions to the original composition of the proposed bargaining unit, namely Dispatch Supervisor, Records Supervisor and Parking Manager. The City objected on the basis of a lack of community of interest and, relating specifically to the Records Supervisor the fact that the position was part of an existing bargaining unit represented by another exclusive bargaining representative. The Union withdrew the position of Records Supervisor from its motion to amend its petition. The

parties agreed that the matter would go forward on the petition as amended and that with the addition of the two additional positions, the issues to be addressed focused on supervisory separation and community of interest of the new unit.

After some clarification of exhibits to be offered and the manner of sharing these, it was agreed that the matter would proceed to evidentiary hearing on June 20, 2007.

PARTICIPATING REPRESENTATIVES

For the Association: John S. Krupski, Esq., Cook & Molan, P.A.

For the City: Paul F. Cavanaugh, Esq., City Solicitor

ISSUES FOR DETERMINATION BY THE BOARD

- (1) Whether Sergeants and Lieutenants may be certified within the same bargaining unit under the Public Employee Labor Relations Act?
- (2) Whether all proposed positions within the proposed bargaining unit share a requisite community of interest?

WITNESSES

For the Association:

1. Sgt. James Berry
2. Sgt. Cori Casey
3. Lt. Paul Leger
4. Acting Chief, Robert Barry

For the City:

1. Acting Chief, Robert Barry
2. Major John Duval
3. Norm O'Neil, Director of Personnel and Labor Relations

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

Joint Exhibits: None marked or agreed to at conference.

For the Association:

1. Job Descriptions
2. Selected SOPs; Department Directives related to discipline, internal investigations, Watch Commander duties and chain of command
3. FY 2006 Police Annual Report
4. Personnel Rules of City of Concord

For the City:

1. Consultant's report and draft job descriptions
2. No others then those listed by the Association

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later with reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is understood that each party may rely on the representations of the other party that the exhibits listed above will be available at the hearing.

LENGTH OF HEARING

The time being set aside for this hearing is one-half day. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least five (5) days prior to the date of the evidentiary hearing.

DECISION

1. The parties' representatives shall meet, or otherwise confer, on or before **June 15th** in order to compose a mutual statement of agreed facts. The parties' representatives shall memorialize those facts upon which they can so stipulate and file that document with the PELRB prior to the date of the hearing.
2. The Union's counsel shall notify the City's representative on or before **June 15th** of the specific numbered sections within the Standard Operating Procedures and Department Directives as he intends to utilize as evidence.

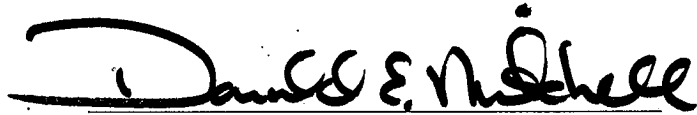
3. The City shall allow the Union representative to review the consultant's draft job descriptions on or before July 15th and provide the Union representative with copies upon the request following his review.
4. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative or counsel, and to the PELRB, at least five (5) days prior to the scheduled hearing date. The party representatives shall meet, or otherwise arrange, to pre-mark any exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
5. The parties shall file any additional preliminary, procedural or dispositive motions no later than five (5) calendar days prior to the scheduled hearing date.
6. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on:

Wednesday, June 20, 2007 @ 9:30 AM

at the offices of the Public Employee Labor Relations Board, Concord, New Hampshire.

So ordered.

Signed this 12th day of June, 2007.



Donald E. Mitchell, Esq.
Presiding Official

Distribution:

John S. Krupski, Esq.

Paul F. Cavanaugh, Esq.